



Office of the Independent Inspector General

“[T]o detect, deter and prevent corruption, fraud, waste, mismanagement, unlawful political discrimination or misconduct in the operation of County government.”

Quarterly Report
2nd Quarter 2019

July 15, 2019

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OFFICE OF THE INDEPENDENT INSPECTOR GENERAL

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July 15, 2019

Via Electronic Mail

Honorable Toni Preckwinkle
and Honorable Members of the Cook County
Board of Commissioners
118 North Clark Street
Chicago, Illinois 60602

Re: Independent Inspector General Quarterly Report (2nd Qtr. 2019)

Dear President Preckwinkle and Members of the Board of Commissioners:

This report is written in accordance with Section 2-287 of the Independent Inspector General Ordinance, Cook County, Ill., Ordinances 07-O-52 (2007), to apprise you of the activities of this office during the time period beginning April 1, 2019 through June 30, 2019.

OIIG Complaints

The Office of the Independent Inspector General (OIIG) received a total of 170 complaints during this reporting period.¹ Please be aware that 10 OIIG investigations have been initiated. This number also includes those investigations resulting from the exercise of my own initiative (OIIG Ordinance, Sec. 2-284(2)). Additionally, 41 OIIG case inquiries have been initiated during this reporting period while a total of 202 OIIG case inquiries remain pending at the present time. There have been 33 matters referred to management or other enforcement or prosecutorial agencies for further consideration. The OIIG currently has a total of 26 matters under investigation. The number of open investigations beyond 180 days of the issuance of this report is 25 due to various issues including the nature of the investigation, availability of resources and prosecutorial considerations.

¹ Upon receipt of a complaint, a triage/screening process of each complaint is undertaken. In order to streamline the OIIG process and maximize the number of complaints that will be subject to review, if a complaint is not initially opened as a formal investigation, it may also be reviewed as an "OIIG inquiry." This level of review involves a determination of corroborating evidence before opening a formal investigation. When the initial review reveals information warranting the opening of a formal investigation, the matter is upgraded to an "OIIG Investigation." Conversely, if additional information is developed to warrant the closing of the OIIG inquiry, the matter will be closed without further inquiry.

OIIG Summary Reports

During the 2nd Quarter of 2019, the OIIG issued 11 summary reports. The following provides a general description of each matter and states whether OIIG recommendations for remediation or discipline have been adopted. Specific identifying information is being withheld in accordance with the OIIG Ordinance where appropriate.

IIG17-0254. The OIIG opened this investigation after a complainant, a Minority-Owned Business Enterprise (MBE) and Woman-Owned Business Enterprise (WBE) certified telecommunications and data cabling services contractor, alleged that Cook County violated the Cook County Minority- and Woman-Owned Business Enterprise (M/WBE) Ordinance and Ethics Ordinance when it improperly sole sourced a brand of cabling in the low voltage specifications for the Cook County Health (CCH) Professional Building Project (“Project”) and that the cable brand company imposed a minimum sales volume unattainable by small, disadvantaged contractors.

Section 34-263 of the M/WBE Ordinance defines “Small Business” as “a small business as defined by the U.S. Small Business Administration, pursuant to the business size standards found in 13 CFR § 121, as related to the nature of work the Person seeks to perform on Contracts.” Size standards vary depending on industry or the North American Industry Classification System (“NAICS”) and 13 CFR § 121.201 (b) which provides a full table of NAICS codes and the business size limits by either number of employees or annual sales. *See*, 13 CFR § 121.101. According to that section, complainant could maintain annual sales up to \$11 million to maintain its status as a small business. The complainant maintained certifications in multiple NAICS codes that had sales limits from \$11 million to \$36.5 million. The preponderance of evidence demonstrated that the specified cable brand’s “soft” minimum sales requirement of \$200,000 to \$250,000 a year does not exclude M/WBE participation. As the specified cable brand company only had one certified WBE installer in the Chicago-area, the Cook County Director of Contract Compliance should work with that company to increase its participation of certified M/WBE installers.

It is also important to note that the M/WBE Ordinance does not specify what types of work or supplies a non-M/WBE must subcontract out but allows contractors the flexibility to determine the method to reach M/WBE goals. That is, as long as the proposed utilization plan meets the project specific goals, the Office of Contract Compliance approves the utilization plan. Moreover, the Code does not mandate participation in every aspect of the contract because M/WBE certified contractors vary depending on the industry. *See*, Cook County Code Section 34-267(b). In this case, notwithstanding the fact that the specified cable brand had only one WBE-certified installer and no MBE-certified installers, the general contractor met its 35% project specific goal in its Utilization Plan. As of the date of this report, the general contractor had not yet paid all of its subcontractors thereby not allowing this office to verify whether the general contractor satisfied all requirements specified in the Utilization Plan.

The preponderance of evidence demonstrated, however, that CCH violated Section 2.7 of the Cook County Health Supply Chain Management Procurement Policy. Section 2.7 requires the using department to submit a letter to the System Supply Chain Management Director justifying

the sole source selection of a service or supplies when “[t]here is a need for the unique or specialized skill, experience or ability possessed by a particular source for the item or specialized skill, experience or ability possessed by a particular source for the item or service.” The preponderance of the evidence demonstrated that the using department did not submit a justification letter when it specified a brand name of equipment in the CCH Telecommunications Structured Cabling Guidelines. Moreover, the using department could not have met the standard to justify the selection of the specified cable brand as a sole source. The CCH Telecommunications Director stated that he and other CCH employees selected the specified cable brand because the company was local, the parts were easily obtainable, the company offered a comprehensive solution and a 25-year warranty. These are reasonable considerations but should have been part of an evaluation process following competitive bidding so that CCH could include pricing as a factor for consideration. As CCH specified the brand and disallowed proposed equivalent materials without a competitive bidding process, neither CCH nor this office could determine whether the specified cable brand’s pricing was comparable to the other manufacturers in the industry. As such, the preponderance of evidence demonstrates that CCH violated Section 2.7 of the Cook County Health Supply Chain Management Policies by identifying specific name brand products without issuing a letter to the Supply Chain Management Director justifying the sole source purchase. Moreover, as stated above, even if they had, it could not meet the standard supporting the sole source purchase outside the competitive process.

The preponderance of evidence also demonstrated that CCH continued to sole source the specified cable brand and other specific brands in more recent capital projects for the Matteson and Cicero Health Clinics.

Based on the foregoing, we recommended the following:

1. The CCH Telecommunications Director should revise the CCH Structured Cabling Guidelines to only include technical specifications and not identify specific product name brands as these are the guidelines CCH relies on for all its capital projects.
2. The CCH Telecommunications Director should work with the Director of Supply Chain Management to ensure that the CCH Structured Cabling Guidelines, and all CCH projects based on the guidelines, comply with the CCHHS Supply Chain Management Procurement Policies in all future CCH capital projects.

These recommendations are currently pending.

IIG18-0100. This review of Cook County Health financial reports was initiated after receiving information during the course of our prior review of CCH bad debt expense and claim denials. *See* OIIG Public Statement IIG17-0421 (March 22, 2018) (Supplement, May 18, 2018). There, certain senior officials disclosed to us that CountyCare sustains a substantial amount of unpaid healthcare expenses and does not have the wherewithal to satisfy those financial obligations during each fiscal period. It was also alleged that Stroger Hospital generates millions in losses due to unpaid healthcare expenses from CountyCare. We commenced this review to evaluate the assertions concerning CountyCare’s substantial unpaid healthcare expenses.

During this review, we interviewed numerous employees and officials including six CCH senior officials, a CCH Board member, two CountyCare senior officials, two CountyCare employees, two Bureau of Finance senior officials, three external auditors, two third-party administrator senior employees, and a State of Illinois employee.

Additionally, the significant and relevant documents we reviewed were CCH Financials from 2013-2018, CAFRs from 2013-2018, accounts receivable transaction summaries from 2013-2018, third-party administrator outstanding claims, CCH and CountyCare's Memorandum of Understanding, Milliman Actuarial Client Reports, Bureau of Finance Revenue Reports presented to the Board of Commissioners, and CCH Monthly Reports to the Board of Commissioners.

Our review identified key managerial decisions and financial policies associated with large volumes of unpaid healthcare expenses. We highlighted the primary concerns related to the growing unpaid debt:

1. CountyCare's "due from state" capitation payments track delayed payments or backlogs owed to CountyCare. The comparatively small amounts the State tends to owe CountyCare at years-end is dwarfed by the substantial amounts of Claims Payable outstanding at the end of each year. Essentially, the per member per month (PMPM) capitation payments due from the State in 2018 (\$14 million) can only pay 2% of the outstanding liabilities (\$701 million) for the 2018 fiscal year-end. Even when excluding the amount internally owed to CCH (\$199 million), CountyCare is liable to external healthcare creditors in the amount of \$502 million. Most of the unpaid debt is owed to vendors because 85% of CountyCare Members obtain their healthcare from external providers (non-CCH facilities and personnel).
2. The established trend demonstrates that CountyCare does not generate enough revenue to pay all the outstanding healthcare expenses each fiscal year-end. CCH has developed a practice of using subsequent period budgetary funds to pay prior period bills. In effect, CountyCare is forced to pay substantial prior period and new period healthcare expenses during each fiscal period. Consequently, CountyCare's unpaid healthcare expenses are steadily growing and could become too large to pay without an extraordinary contribution from another funding source in the future.
3. CCH management does not routinely disclose to the CCH Board and Cook County Board of Commissioners important terms associated with related-party transactions that result in significant financial impacts between CCH and CountyCare. For example, there is a Memorandum of Understanding (MOU) between CCH and CountyCare with provisions that enabled changes in the reimbursement methodology and allowed for the shifting of losses between the two related entities. These methods and associated outcomes set forth in CCH Financials are not fully disclosed and explained to the CCH Board and Cook County Board of Commissioners.

4. In 2018, CCH senior officials amended the MOU between CCH and CountyCare to retroactively change reimbursement rates for 2017 due to a state-imposed revenue reduction and clawback of funds. This retroactive change had a significant negative effect on Stroger Hospital and presented CountyCare as more profitable than it would have been without the change in reimbursement rates from CountyCare to CCH. These events were not fully and clearly disclosed to the CCH Board and Cook County Board of Commissioners.
5. Despite the existence of the MOU, CCH routinely changes revenue and expense figures between CCH's operating units (e.g., Stroger, CountyCare, etc.) to reach desired financial goals for CountyCare and Stroger Hospital in CCH's monthly and annual financial reports. As a result, these practices make it difficult for the CCH Board and Cook County Board of Commissioners to have a sound baseline to evaluate the performance of the individual operating units that make-up CCH.

These matters are significant because CountyCare has accumulated \$701 million in unpaid healthcare liabilities as of November 30, 2018. Of this amount, CountyCare is liable for approximately \$200 million to Stroger Hospital (albeit Stroger Hospital and CountyCare are both components of the single Cook County Health and Hospitals System). The \$701 million figure represents an increase of 52.9% from fiscal year 2017. As of November 30, 2018, the state owes CCH just \$14 million, though CCH owes the state \$26 million. These developing financial circumstances are further aggravated by the fact that CCH has experienced interruptions in healthcare services due to its inability to pay vendors.

In light of the facts gathered, we developed the following recommendations to assist in improving financial and operational transparency and accountability related to CountyCare's unpaid healthcare expenses:

1. CountyCare's cash balance, capitation revenue due from the state, and outstanding Claims Payable should be clearly stated in comparison form in a report so that the CCH Board and Cook County Board of Commissioners can timely monitor these financial conditions on a regular basis.
2. The CCH Board of Directors should mandate an in-depth analysis of the unpaid healthcare expenses and create a plan to reverse the established trend. CCH should also provide timely and accurate Claims Payable aging reports. These expenses are steadily growing and could become too voluminous to manage without an extraordinary contribution from another funding source in the future. Additionally, to the extent possible, future PMPM revenues should be matched with future healthcare expenses.
3. CCH should be required to provide more transparency in connection with related party transactions. There should be disclosures that highlight the key terms in the MOU between CCH and CountyCare such as the reimbursement rate and any

adjustments. The reimbursement rate provides critical information for the CCH Board of Directors and County Board of Commissioners when making decisions related to budgetary and policy matters. These matters include understanding what factors are driving CCH losses and understanding the trend reflecting increased Claims Payable liabilities.

4. The CCH Financials should reflect the actual figures generated in each respective department. Managerial discretion should be eliminated when determining which operating units should encounter a gain or loss. This is separate and apart from the adjustments in reimbursement rates documented in the MOU between CCH and CountyCare. When senior management subjectively adjusts revenues and expenses, the CCH Board and Cook County Board of Commissioners are not provided an opportunity to develop a factually sound assessment of CCH's operations for planning purposes. While the consolidated numbers reflected in the CAFR remain a major focus, the financial data supporting the consolidated numbers tells an equally important story of the condition of the critical operating units within CCH and are relevant for the determination of policy.
5. As outlined above, 15% of CountyCare Members obtain their healthcare from CCH and 85% seek care from external healthcare providers. This results in the vast majority of CountyCare's revenues from the State of Illinois going directly to external healthcare providers. It is well-known to CCH management that CCH could retain more of CountyCare's revenue if CCH's primary care providers made more internal referrals of CountyCare members/patients and encouraged their utilization of services within CCH. Achieving this outcome remains CCH management's primary challenge. Of course, we recognize that other more complex realities exist that also drive this imbalance. CCH should aggressively move toward addressing this issue at every level possible across all departments.

These recommendations are currently pending. This report was issued as a public statement, and the full report is available on our website.

IIG18-0304. This investigation was initiated by the OIIG based on a complaint alleging that a Request for Proposal (RFP) issued by the Forest Preserve District of Cook County (FPD) for the purchase of a heavy-duty vehicle lift was inappropriately issued and eventually canceled for reasons which were unclear. Specifically, the investigation by this office focused on whether the RFP bidding process may have been tainted due to FPD officials contacting one or more of the vendors during the process of drafting the RFP. This office also examined the process the FPD employed that eventually bypassed the RFP method altogether and resulted in the purchase of the heavy-duty lift through a purchase order to the National Joint Powers Alliance (NJPA). The investigation consisted of interviews of various FPD employees, including the FPD Purchasing Agent, an FPD contract negotiator and an FPD maintenance supervisor. This office also reviewed internal FPD e-mails from the period of 2015-2016 in which this RFP was discussed, product data along with files maintained by the FPD.

The preponderance of the evidence developed during this investigation did not support the allegation that the FPD improperly contacted any vendors during the process to formulate an RFP for a heavy-duty lift. The FPD acknowledged it did utilize the internet to obtain technical information from manufacturers' websites needed to draft the RFP. The investigation revealed that the FPD took affirmative action on its own to rehabilitate an RFP that it found to possibly contain information which would favor one manufacturer over others. Once the FPD identified this potential defect, a more generic RFP was created, and the bidding process was re-opened. During the re-opened bidding process, the FPD discovered that incoming bids were not in alignment with the FPD's specific needs and decided to purchase the heavy-duty lift through a purchase order. The OIIG determined the FPD's use of a purchase order enabled the FPD to obtain a heavy-duty lift that met all the FPD's unique requirements and that the FPD adhered to its purchasing policies. Accordingly, the complainant's allegation was not sustained.

IIG18-0422. The OIIG opened this investigation upon receiving a complaint alleging that the President's former Chief of Staff sexually harassed women during his tenure working for the President, although not in the course of his employment. The complainant alleged that the President was aware of this behavior on March 21, 2018 but failed to take action until September 18, 2018. The complainant also alleged that the former Chief of Staff exerted inappropriate influence over the Department of Human Rights and Ethics. The Office of the President referred this complaint to the OIIG after the former Chief of Staff resigned. The OIIG conducted this review in order to determine whether Cook County officials and employees acted appropriately once the allegations against the former Chief of Staff were brought to their attention and whether the former Chief of Staff exerted undue influence over the Department of Human Rights and Ethics. The OIIG reviewed relevant Cook County policies, including the Cook County Personnel Rules, Violence-Free Workplace Policy (Aug. 15, 2018), Anti-Violence Policy (Aug. 15, 2018), Equal Employment Opportunity Policy (Dec. 14, 2016), and the Cook County Prohibition of Discrimination and Harassment Ordinance (Ord. No. 17-6302, 1-17-18). The OIIG also reviewed County records and interviewed numerous current and former employees.

The evidence developed over the course of this investigation did not reveal the existence of a culture of sexual harassment or discrimination or one that condones such conduct in the Office of the President. The OIIG interviewed a number of employees who have worked in the Office of the President, none of whom described an articulable culture of harassment or discrimination, either in general or involving the former Chief of Staff. Both the former Deputy Director of Communications and the Press Secretary raised concerns that the former Chief of Staff frequently passed by their offices to deal with male employees on issues that should have included their involvement. However, both employees specified that the former Director of Communications, their supervisor, was the person the former Chief of Staff tended to consult. Though it may have been a poor management decision to leave them out of these conversations that they felt should have included them, it cannot necessarily be attributed to the fact that the former Director of Communications was a man. The former Deputy Director of Communications also felt that the former Chief of Staff "played favorites" and that most of his favorites tended to be men. However, she also believed that the former Chief of Staff excluded her from meetings and conversations because she was willing to voice opinions that were contrary to his. She acknowledged that her

belief that the former Chief of Staff showed preference to male employees was not based on any specific, articulable incidents and may have been a result of her perspective. Although sexual harassment and discrimination can be subtle, we were unable to develop sufficient evidence to conclude that the former Chief of Staff used impermissible factors related to gender to make management decisions.

The former Deputy Director of Communications also recalled hearing the former Chief of Staff discuss his college-age girlfriend, particularly remarking on how “hot” she was. Certainly, talking about his partner’s appearance in this way in the workplace is inappropriate. However, as no other employee recalled the former Chief of Staff discussing women in this way in the workplace, we cannot conclude that the culture of the Office of the President fosters this kind of conduct. To the contrary, it became clear through our investigation that the President does not encourage employees to discuss their personal lives at work.

The evidence developed over the course of this investigation revealed no incidents or allegations involving the former Chief of Staff sexually harassing or otherwise treating Cook County employees in an inappropriate manner. Neither the Bureau of Human Resources nor the Department of Human Rights and Ethics ever received any complaints regarding the former Chief of Staff. This office also has not received complaints related to the former Chief of Staff. Furthermore, none of the employees interviewed by this office were aware of any such complaints or aware of other employees who may have been treated inappropriately by the former Chief of Staff. As such, the evidence fails to support the conclusion that the President knew or should have known about the former Chief of Staff’s alleged behavior towards women outside of County employment prior to being made aware of it in 2018.

By the complainant’s own account, the President did not present any details about the allegations against the former Chief of Staff in March of 2018 because neither Individual A (the woman mentioned in a November 8, 2018 Chicago Tribune article regarding the former Chief of Staff) nor the subject women on the congressional campaign wanted to come forward. While we should strive to create an environment where victims of sexual harassment feel comfortable to report their experiences, we also must respect the wishes of victims who are not yet ready to tell their stories. Individual A’s hesitancy to come forward was reasonable. The President’s assertion that she would not take action against an employee based on an unsubstantiated rumor is also reasonable.

The President’s account to the public is consistent with the accounts of the complainant, former Director of Governmental and Legislative Affairs, and the former Chief of Staff. Once she had specific information about the allegation in September of 2018, the President took action to corroborate that information and sought the former Chief of Staff’s resignation. There is no indication that she knew any specific allegations against the former Chief of Staff prior to September 14, 2018 upon which employment action would have been appropriate.

The issue remains whether the complainant was advised by the former Director of Governmental and Legislative Affairs that a written complaint had to be filed in order for any

action to be taken by the President. While the complainant and the former Director of Governmental and Legislative Affairs differ in their accounts of this process, it should be noted that the County has taken significant steps to train employees regarding how to report instances of sexual harassment and discrimination since Sections 44-53 and 44-58 of the Cook County Code of Ordinances were passed in December of 2017.

This investigation revealed no evidence that the former Chief of Staff exerted an undue amount of control over the Department of Ethics and Human Rights. It is not unreasonable that the former Chief of Staff wanted to be given a heads up about cases that may become public and would affect the Office of the President. There is no indication that he attempted to influence how those cases were handled or expected to receive reports about certain types of cases in order to direct the Department's investigations.

The Cook County Equal Employment Opportunity Policy (Dec. 14, 2016) governs sexual harassment and discrimination committed by County employees within the scope of their employment. The Policy primarily describes options for reporting such incidents of sexual harassment or discrimination, as well as the investigation process.

Three sections at the end of the Policy describe reporting mechanisms that may apply to situations such as the incidents involving the former Chief of Staff, where a County employee engages in inappropriate behavior outside of the scope of his or her employment. Section IX(a) provides: "If the EEO [Equal Employment Opportunity] Officer determines that the allegations of the complaint, even if true, would not violate this Policy, but describe conduct that may be of concern to a department head, the complaint will be forwarded to the relevant department for further review." Section IX(b) states: "If the allegations of a complaint describe conduct that is not covered by this Policy, but if true, may constitute other misconduct, the EEO Office will advise the Cook County Office of the Independent Inspector General ("OIIG") in writing of such complaints." Section IX(c) states: "In appropriate situations, the EEO Office will work with departments to address complaints through other courses of action as determined by the EEO Office."

No personnel rule currently exists which governs a circumstance such as the allegation made against the former Chief of Staff occurring outside of his County employment. Although the reporting scheme outlined above provides a mechanism for an individual to report a County employee engaging in harassment outside the scope of his or her employment, there is no policy providing guidance to assess disciplinary liability. In other words, if a complainant were to file a complaint via the existing process, the responding agency, whether it is the EEO, the employee's department, or the OIIG, does not have a framework under which to conduct an investigation or recommend discipline of an employee.²

² To be sure, in this case, the President was not constrained by the lack of a personnel rule in deciding whether to discipline or discharge an at-will, *Shakman*-exempt employee.

Other agencies have rules that generally prohibit inappropriate behavior by government employees outside the scope of their employment. The Cook County Health and Hospitals System (CCHHS), for example, lists as a major-cause infraction Personnel Rule 8.03(c)(25): “Engaging in conduct that reflects adversely or brings discredit to the System; that harms, or has the potential of harming, another individual.” Similarly, the City of Chicago Personnel Rule XVIII, Section 1, Rule 50 prohibits “Conduct unbecoming an officer or public employee.”³

We support the important improvements the County has made to prevent sexual harassment and discrimination in the workplace and to implement better reporting mechanisms for employees who experience sexual harassment or discrimination, as well as the President’s formation of a task force to continue to find areas for improvement. However, because the rules governing a County employee engaging in inappropriate behavior outside the scope of his or her employment in a manner that may be damaging to the County are ambiguous, further guidance is required. Therefore, we recommended the following:

- 1) The Office of the President, in conjunction with the Bureau of Human Resources and the EEO Office, should clarify the reporting process for members of the public or third parties to file complaints that involve employees’ behavior outside the scope of their employment or that otherwise may not fall under the jurisdiction of the EEO Office. As noted above, there is a mechanism for reporting in this type of situation, but that mechanism may not be immediately apparent to a member of the public wishing to file a complaint. We recommended that the process be refined and clarified so to eliminate any confusion surrounding whether a report can be filed under these circumstances and how to do so.
- 2) The Personnel Rules should be amended to create a rule such as the policies adopted by CCHHS and the City of Chicago, to govern employees acting inappropriately outside of the scope of their employment, but in a manner which may bring disrepute upon the County. We are mindful that creating a rule which places a burden on County employees outside the scope of their employment may put the administration in a precarious situation. However, we have confidence that administrators will exercise appropriate judgement when considering such misconduct when it occurs and enforcing discipline pursuant to such a rule. We also recommend that any such rule include language more specific than that used by CCHHS and the City of Chicago when describing the prohibited conduct. For example, engaging in conduct that is “so severe or extreme” that it reflects adversely on the County.

These recommendations are currently pending.

³ Rule 3.3(b)5 of the Cook County Personnel Rules (Recruitment and Application – Qualification of Applicants) does provide that: “The BHR may reject or disqualify any applicant or disqualify any eligible at any time prior to appointment or disqualify any employee prior to the completion of his/her probationary period if he/she: ... Has been guilty of conduct which would reflect adversely on, or bring discredit to the County or the Career Service

Hon. Toni Preckwinkle and

Hon. Members of the Board of Commissioners

July 15, 2019

Page | 11

IIG18-0464. The OIIG received information that the Cook County Director of Real Estate violated Cook County policy as stated in Cook County Board of Commissioners Resolution 18-1749 by failing to give the right of first refusal to blind vendors in connection with two vendor agreements. During the investigation, the OIIG reviewed the Resolution, Board meeting video, Board meeting minutes, and the vendor contracts at issue, and also interviewed the Chairman for the Illinois Committee of Blind Vendors, the Program Administrator for the Illinois Business Enterprise Program for the Blind at the Illinois Department of Human Services' Division of Rehabilitation Services (DHS/DRS), the Director of Real Estate, and participating Cook County vendors.

The preponderance of evidence developed during the course of this inquiry supported the conclusion that the Director of Real Estate violated Section 8.03(b)(22) of the Cook County Personnel Rules by not following County policy as stated in Resolution 18-1749. The Resolution provides in pertinent part that:

[B]eginning June 1, 2018, the Real Estate Management Director shall undertake a review of County vending agreements, licenses or contracts on County property to determine future opportunities for blind vendors and begin the process to transition said contracts, agreements or licenses to blind vendors upon the expiration of said agreements, contracts or licenses where feasible and in the best interest of the County. *Blind vendors licensed by DHS/DRS/BEPB shall be given right of first refusal when the County has identified a vending facility contract, agreement or license that can be transitioned to Blind Vendors (emphasis added).*

The Director of Real Estate intentionally excluded the blind vendors from the right of first refusal in both of the subject vendor agreements. The evidence demonstrated that on July 7, 2017, the subject blind vendors presented a binder of proposed businesses, including one of the subject vendor opportunities, and even brought the Director of Real Estate's staff on a tour to consider this subject vendor's services being provided at a local federal building. When an opportunity to use this subject vendor presented itself in July of 2018, the Director of Real Estate had an obligation to offer this opportunity to the blind vendors but failed to do so. Likewise, the evidence demonstrated that the Director of Real Estate failed to offer the other subject vending opportunity to the blind vendors.

Both the spirit and plain language of the Resolution clearly articulate the intent of the County Board that the Director of Real Estate undertake certain action for the benefit of blind vendors when opportunities arise to provide services upon County property. The Director of Real Estate failed to meet these obligations required of her by the Resolution. For the reasons stated above, the allegation that the Director of Real Estate violated Personnel Rule 8.03(b)(22) by failing to follow County policy as provided in the Resolution was sustained, and this office recommended the imposition of discipline for the Director of Real Estate consistent with other similar cases of this nature.

This recommendation is currently pending.

IIG18-0538. In this case, the OIIG developed information that a Cook County Forest Preserve District Commissioner intervened in the matter of a Forest Preserve Police Department (“FPPD”) parking ticket issued to a political associate of the Commissioner by personally urging the FPPD to dismiss the ticket and, with the cooperation of a high ranking FPPD official, arranged for the involved officers who issued the ticket to present before the Commissioner in his office to face questioning concerning their conduct in the issuance of the parking ticket.

The preponderance of the evidence developed during the course of this investigation demonstrated that Individual A, a political associate of the subject Commissioner, received a \$250.00 parking ticket for illegally parking in a parking space reserved for disabled individuals. Thereafter, Individual A enlisted the assistance of the subject Commissioner to avoid liability for the fine imposed. The subject Commissioner contacted a high ranking FPPD official in an effort to seek a dismissal of the ticket and, as part of that discussion, stated to the official that Officer A displayed a poor attitude when interacting with Individual A and that the subject Commissioner requested the FPPD official to send Officer A to the Commissioner’s office so the Commissioner could personally question Officer A concerning his alleged conduct.

The subject Commissioner stated that he did not recall whether he complained about Officer A’s attitude. However, the preponderance of the evidence supports the conclusion that the subject Commissioner did complain of Officer A’s attitude and asserted that complaint as a basis for meeting with Officer A. The evidence supporting this conclusion includes the FPPD official’s detailed account of the Commissioner statements, Officer A’s detailed account of the Commissioner’s questioning, and the Commissioner’s statements during the Commissioner’s OIIG interview. In that interview, contrary to other witness statements, the Commissioner claimed to have contacted the FPPD official for three reasons: (1) to challenge the issuance of the ticket; (2) to address problems between minority and law enforcement communities; and (3) to learn what procedures were involved in challenging the parking ticket. The Commissioner’s statement strains credulity regarding the second and third reasons for the call to the FPPD official. First, the Commissioner acknowledged that none of the historical problems between minority and law enforcement were present in the situation at issue. Second, there was no need for the Commissioner to contact the FPPD official to learn, on behalf of Individual A, the procedure for challenging a parking ticket as the procedure is written on the ticket itself. Thus, taking the statements of the Commissioner along with those of the FPPD official and Officer A, the preponderance of the evidence demonstrated that the subject Commissioner did claim Officer A exhibited a poor attitude and used that claim to seek to meet with the Officer in order to challenge or otherwise criticize the decision to issue the parking ticket. The FPPD official ordered Officer A to appear before the Commissioner.

The conduct by both the Commissioner and the FPPD official violated Section 44-56 of the Cook County Human Resources Ordinance.⁴ Section 44-56 prohibits the use of political factors in any employment action, including evaluation of employee performance. (Code of Ordinances, Cook County, Illinois ch. 44, art. II, sec. 44-56(1)(c) (2008)). In this case, Commissioner requested a meeting with Officer A for the stated purpose of discussing Officer A's conduct in the performance of his duties and challenging Officer A's issuance of the parking ticket. This is an evaluation of employee performance. The Commissioner should not have been the person performing this managerial action. That function is, or should be, exclusive to FPPD management.⁵ Any person with a complaint concerning an officer's conduct should make that complaint to the appropriate authority, such as an FPPD official, and allow the matter to be handled according to established management procedures. As such, the FPPD official should not have ordered Officer A to appear before the Commissioner because he did so with the knowledge that the Commissioner sought to criticize Officer A's performance and challenge Officer A's decision to issue the parking ticket. Importantly, this activity also marks where the Commissioner and the FPPD official violated their respective fiduciary duties to the Forest Preserve District.

The Forest Preserve District Ethics Ordinance requires that all officials and employees shall at all times owe a fiduciary duty to the District. (Forest Preserve District Code, Title 1, ch. 13, sec. 2.A. (1999)). The FPD reserves certain parking spaces for disabled individuals. Parking unlawfully in such a space merits a \$250.00 fine under the law. It is not a defense that one did not intend to use the parking space for an extended period or that one should have received a warning prior to being ticketed or because other parking spaces were available in the parking lot. It is most certainly not a defense that one believed there were no disabled persons present or that the officer "has no heart" as the subject Commissioner asserted. Nonetheless, urging these lines of defense, the Commissioner twice engaged the FPPD official and held a meeting with Officer A and Officer A's trainee. For his part, the FPPD official and other command staff spent time and effort attempting to void the ticket. All this time and effort by the Commissioner and FPPD staff constituted a waste of the resources of the FPPD. That the FPPD official, absent any investigation of the parking ticket, chose to nonsuit (void) the ticket represents a failure to serve the best interests of the public and is a breach of his fiduciary duty.

Particularly egregious is that the expending of resources and dismissal of the ticket also creates both the appearance of impropriety and actual impropriety. The evidence outlined above demonstrates that the Commissioner was not engaged in a legitimate purpose of the Commissioner's office. Rather, the Commissioner was attempting to use the authority of the Commissioner's office on behalf of a political associate who sought to avoid the consequences of his actions. The FPPD official's failure was allowing the Commissioner to succeed. As a result, a host of negative outcomes were triggered. The ticket was nonsuited, Officer A, with the consent

⁴ The Forest Preserve District adopted the Cook County Human Resources Ordinance by way of Title 1, Ch. 6 Section 9.A.1. of the Forest Preserve District Ordinance (2008).

⁵ That the subject Commissioner did this for any FPPD employee who allegedly committed an employment violation is problematic. That he engaged in this activity on behalf of a political associate heightens the concerns of this office.

of his department, was personally subjected to criticism from the Commissioner and a FPPD trainee started his career observing what it can mean to issue a citation to someone (Individual A) who utters the words “do you know who I am?” as was the case here. Additionally, these circumstances perpetuated a culture, if not a custom and practice, that political influence has its place in law enforcement activities. This is demonstrated by the both the conduct of the FPPD official and others in the FPPD when each sought to execute upon the political influence of the Commissioner. This is evident when considering that the chain of command never attempted to investigate the circumstances surrounding the issuance of the parking ticket and elected instead to attempt to administratively void it. Moreover, the statements provided by one FPPD officer with a lengthy tenure in the FPPD suggest that political influence commonly results in the FPPD extending courtesies to officials in the conduct of law enforcement duties which is concerning.

Political connections and influence must never steer or determine outcomes in law enforcement functions. This is true whether law enforcement is engaged in issuing parking or traffic tickets or investigating serious crimes. The FPPD’s failure to establish a culture of professionalism that disregards undue political influence should be addressed as soon as possible.

Based on all of the foregoing, this office offered the following recommendations for remedial action:

- (a) The FPPD should establish a policy and broad effort to communicate it to all FPPD personnel that undue political influence or interference in any law enforcement action must be reported through the FPPD chain of command;
- (b) The FPPD should also establish a policy mandating that both FPD management and the OIIG are provided notice of any circumstance involving undue political influence or interference in any law enforcement action;
- (c) The FPPD should explore reinstating the parking violation related to Individual A;
- (d) The FPD should consider the imposition of significant disciplinary action involving the subject FPPD official;
- (e) The other FPPD officials involved should be reprimanded for their failure to both object to the request to void the ticket and for their actions to accomplish the same.

In accordance with section 2-288 of the OIIG Ordinance, this office also forwarded a copy of our report to the Board of Ethics for further consideration pursuant to the Forest Preserve District Code, Title 1, ch. 13, sec. 4 and 5 (1999).

The OIIG recommendations are currently pending.

IIG19-0038. This investigation was initiated following a complaint suggesting a violation of law or policy by an employee in the Bureau of Administration (BOA) who was conducting political work while on a personal leave of absence. It was also alleged that the subject employee failed to abide by the Cook County Employee Time and Attendance Policy by not clocking-in to work as required. During the course of this investigation, the OIIG reviewed time and attendance reports, Comptroller reports, employee absence history reports, and the employee’s personnel file.

Hon. Toni Preckwinkle and

Hon. Members of the Board of Commissioners

July 15, 2019

Page | 15

We also interviewed the complainant, the BOA Bureau Chief, BOA timekeeper, the Bureau of Human Resources Leave Coordinator, and subject employee, among others. The OIIG discovered a violation of the sick leave provision of the County Personnel Rules by the employee for utilizing paid sick leave while on an unpaid personal leave of absence. The County Ethics Ordinance was also reviewed regarding a possible violation of the political activity section by the employee for allegedly conducting political work while on paid sick leave.

The investigation revealed that payments for sick time to the subject employee were made in error, that the records have been corrected, and that the employee is in the process of reimbursing the County for the full amount received. Accordingly, the subject employee was not on paid time during his personal leave of absence and therefore was not in violation of County personnel rules when he volunteered to work on a political campaign during that time. However, the evidence did support the conclusion that the subject employee failed to adhere to the Cook County Employee Time and Attendance Policy by routinely failing to clock-in as required. Statements by the employee's supervisor and the timekeeper, along with time and attendance records, confirm the continuous failure by the subject employee to regularly clock-in during his workday. In aggravation, it is also important to note that the supervisor had reminded the subject employee on several occasions about his failure to clock-in to work with little result.

Based on our findings, we recommended disciplinary action be imposed upon the subject employee for cause consistent with other similar cases and the factors listed in the Personnel Rules. This recommendation is currently pending.

IIG19-0038. This investigation was initiated based on a complaint alleging that a Forest Preserve Police Department ("FPPD") officer engaged in inappropriate behavior during morning roll call at an FPD facility. Specifically, it was alleged that the subject officer engaged in an unsolicited physical touching of a fellow FPPD officer in a sexually suggestive manner in the presence of a sergeant and three other officers in violation of the Forest Preserve District (FPD) Employee Handbook Sexual Harassment Policy and the FPD Domestic/Sexual Violence & Harassment in the Workplace Policy (Policy 06.10.00). The investigation consisted of a review of videotape of the roll call at issue and interviews of various members of the FPPD including the subject officer and all others at the roll call.

The videotape of the morning roll call at issue does not contain any audio and was taken from a fixed post camera situated in the station's squad room. The pertinent portion of the video clip depicts five male police officers and one female sergeant waiting for roll call to begin. The subject officer appeared to be talking during this phase of the video. The sergeant is standing between a row of desks near the subject officer and appears to say something to him. At this point, the subject officer approached Officer A (who was seated) from behind and reached around him with his arms and his hands acting as though he were holding an object. The subject officer then backed away. The video then shows the sergeant hold roll call and subsequently depicts the officers departing the roll call area while the sergeant goes into her office. No one in the video appears upset at any point and the subject officer and Officer A continue talking while smiling and laughing at times.

In his OIIG interview, the subject officer stated that prior to the date in question, he was on an extended Injured on Duty leave and was on his second day back at work that morning. The subject officer stated that the sergeant had given out the morning assignments during roll call when she stated to Officer A, "Aren't you glad your boyfriend is back?" The subject officer stated he interpreted the sergeant's comment to recognize that he and Officer A had been partners for many years and were now reunited. The subject officer stated he was standing behind Officer A at the time the sergeant's comment was made and he then leaned over to Officer A (who was seated) and said to him, "Remember our favorite movie, 'Ghost'... Patrick Swayze." The subject officer stated he then stepped across the back of Officer A's chair, put his arms around him and said, "Let's make some pottery." The subject officer stated he did not grind his body nor do anything sexual towards Officer A but was merely portraying Patrick Swayze in the movie "Ghost" as that was a favorite movie of Officer A and only in response to the sergeant's comment. The subject officer stated that Officer A and the sergeant laughed and that neither appeared to have any problem with what had just transpired.

The preponderance of the evidence developed during this investigation does not support a finding that the subject officer engaged in sexual harassment toward Officer A as defined by the FPD sexual harassment policies upon which the complaint against him was based. The sexual harassment policy in the FPD Employee Handbook provides:

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when: (1) submission to such conduct is either a term or condition of employment or the provision of District services, facilities or programs; (2) submission to or rejection of the conduct is used as a basis for making employment decisions or for making decisions affecting the provision of District services, facilities or programs; or (3) the conduct has the purpose or effect of substantially interfering with a person's work performance or creates an intimidating, hostile or offensive environment for the provision of District services, facilities or programs.

FPD Policy 06.10.00 similarly defines sexual harassment as follows:

Unwelcome sexual advances, requests for sexual favors, and other visual, verbal or physical conduct of a sexual nature constitute sexual harassment when: (1) It is implicitly or explicitly suggested that submission to or rejection of the conduct will be a factor in employment decisions or evaluations, or permission to participate in a District activity, or (2) The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating or hostile work environment.

The conduct at issue does not meet these definitions of sexual harassment. First, there were no requests for sexual favors. Second, the conduct, while inappropriate and unprofessional, did not rise to the level of substantially interfering with Officer A's work performance or creating an intimidating or hostile work environment. As shown in the videotape, the immediate reaction to the incident demonstrated that none of the officers, including the sergeant, exhibited any noticeable reaction to the subject officer's actions nor did the sergeant attempt to rebuke him or object to his actions. The video demonstrated and the interviews confirmed that all parties present continued with the roll call as if nothing out of the ordinary had occurred. Officer A's own statement indicated he did not feel offended by the subject officer at the time of the incident, but only later felt that the subject officer's actions offended him after being questioned by the sergeant. The sergeant's statement acknowledged she was not personally offended by the subject officer's actions. In addition, the videotape also directly refuted the subsequent written statement by Officer A that the subject officer "started to perform motions of humping...and grabbing Officer A's chest area." Instead, it merely shows that the subject officer reached around Officer A for a few seconds to simulate the movie scene as described above. Again, while inappropriate and unprofessional, the conduct by the subject officer did not rise to the level of sexual harassment under FPD policy.

However, the preponderance of the evidence does support a finding that both the sergeant and the subject officer violated Cook County Personnel Rule 8.03(b)(3) by engaging in inappropriate and unprofessional behavior which was disruptive during the roll call. The sergeant was the one who initiated the inappropriate conduct when she jokingly stated to Officer A, "Look, your boyfriend is back." In her OIIG interview, the sergeant denied saying this, but two officers at the roll call, including one who was a third party to the incident, stated in their OIIG interviews that she did. And it is clear from the videotape that the subject officer is responding to something that the sergeant said when he proceeded to simulate the scene from the movie. It is more likely than not that he is attempting to continue the "joke" started by sergeant with her "boyfriend" comment. Had she not made that comment, the inappropriate conduct by the subject officer may not have occurred. In sum, it was inappropriate and unprofessional for the sergeant to make the "boyfriend" comment in front of other employees at a roll call, and it was inappropriate and unprofessional for the subject officer to carry the joke further as he did. The conduct of both the sergeant and the subject officer was disruptive to the roll call and a violation of Personnel Rule 8.03(b)(3).

Based on all of the forgoing, we recommended the following remedial action:

1. The FPD should impose disciplinary action against the sergeant and the subject officer for violation of Personnel Rule 8.03(b)(3) consistent with the disciplinary action imposed in other in similar circumstances considering as well the factors set forth in Personnel Rule 8.042;
2. During the interviews conducted in this case, statements were made concerning the unchecked prevalence of routine joking of this nature between officers, some of which has been described as "off color." We recommended that the FPD undertake a careful examination of the existing culture within the FPPD and ensure that all officers, including supervisory officers, are properly educated in sensitivity training and that management set

a standard of conduct that reflects an appropriate level of professionalism and mandate adherence to these standards by all officers.

These recommendations are currently pending.

IIG19-0100. This investigation involved a Post-SRO complaint filed pursuant to the *Supplemental Relief Order for Cook County* (“SRO”) entered in connection with the *Shakman v. Cook County*, 69 C 2145 (N.D. Ill.) litigation. The complainant, a former Cook County employee, alleged that the County violated the terms of his March 2, 2018 settlement agreement in that he was not interviewed or offered employment for positions that he applied for and met the minimum qualifications.

The investigation failed to uncover evidence that political factors or retaliatory motivations were considered in an employment decision regarding the complainant. Rather, the preponderance of the evidence in this case revealed that the complainant either did not meet the required qualifications for the positions for which he applied or received an interview where he was seemingly qualified although not selected for hire. Accordingly, Cook County has satisfied the terms of the settlement agreement and no violation of the SRO occurred.

IIG19-0138. During the routine monitoring of disciplinary sequences, this office became aware that the Forest Preserve District (FPD) sought to discipline Employee A for having been absent from work without approved leave for a period of 12 consecutive workdays in March of 2019. Personnel Rule 8.03(b)(16) states that a department head is required to initiate discharge action against an employee who is absent without an approved leave for three consecutive workdays. Notwithstanding Rule 8.03, the FPD issued a five-day suspension against Employee A.

When employees are absent from work without leave, Rule 8.03(b)(16) grants management the discretion to impose discipline including discharge under appropriate circumstances. However, the plain language of Rule 8.03(b)(16) divests management of discretion in whether to seek discharge once the employee has been absent without leave for more than three consecutive workdays. Once that threshold is met, the Rule specifically states that the department head is required to initiate discharge action.

The Special Assistant to the Superintendent administers all disciplinary hearings. In his OIIG interview, he suggested that the Rule requires merely initiation of discharge action but that the FPD need not follow through with discharge. We believe, however, that the language of the policy is clear in directing management’s course of action in such circumstances and that by offering discretion to another level of management otherwise not recognized by the policy is an interpretation that should be avoided. Such an interpretation fosters the inconsistent application of a policy that offers no such leeway.

Our consideration of this issue included records from disciplinary proceedings from both FPD and Cook County involving the same Rule. In the last three such proceedings in the FPD, two

of the employees were terminated and a third resigned in lieu of termination. The same is true for Cook County; enforcement of the Rule has led to termination in all the recent examples identified.

The Special Assistant had suggested that certain unique circumstances that may be present in any absence without leave case should be considered in determining whether discharge is appropriate notwithstanding the length of absence involved. We believe that this opinion is reasonable, but it should form the basis for the amendment of the policy rather than reading an exception into the policy when it does not exist otherwise.

Based on all the foregoing, we recommended that the FPD uniformly apply Rule 8.03(b)(16) or seek its amendment permitting the exercise of discretion in its application on a case-by-case basis. This recommendation is currently pending.

IIG19-0271. This investigation was opened after the Forest Preserve District (FPD) informed this office that an FPD contractor may have submitted two forged lien waivers. OIIG investigators met with FPD Counsel and reviewed the Waiver of Lien instruments. FPD counsel advised this office that the FPD awarded multiple contracts to the FPD contractor. Subsequently, one of the subcontractors on the project filed for bankruptcy and went out of business but failed to respond to the FPD contractor's requests for executed waivers. The Bankruptcy Court allowed the bank as a secured creditor to pursue the subcontractor's accounts receivable, which included amounts due from the FPD contractor and FPD. The correspondence between the FPD contractor and secured creditor's collection agent revealed that the FPD Contractor and secured creditor reached a settlement on the amount the FPD Contractor would pay the secured creditor. The FPD contractor provided FPD two final waivers of lien executed by a representative of the secured creditor. In an attempt to verify the signature on the waivers, FPD counsel searched the agent's LinkedIn account and contacted the secured creditor. After being unable to identify the agent on LinkedIn and the secured creditor advising her that no one by that name worked for the secured creditor, FPD counsel referred this matter to this office.

This office also searched LinkedIn.com for the secured creditor's agent to no avail. This office then identified the individual who notarized the agent's signature on the subject waiver of lien. The notary, an employee of the secured creditor, advised this office that the agent was a Vice-President of Managed Assets for the secured creditor and also provided the individual's direct phone number, work location and his mailing address.

This office contacted the agent who stated that he goes by a nickname. The agent executed the waivers of lien using his birth name and not his nickname. This office found the agent's profile with his nickname on LinkedIn.com. Upon presentation of the waivers, the agent confirmed that it was his signature on the subject waivers of Lien.

Based on the foregoing, the preponderance of the evidence revealed that the agent of the secured creditor executed the waivers of lien. Accordingly, the allegation was not sustained.

Outstanding OIIG Recommendations

In addition to the new cases being reported this quarter, the OIIG has followed up on outstanding recommendations for which no response was received at the time of our last quarterly report. Under the OIIG Ordinance, responses from management are required within 45 days of an OIIG recommendation or after a grant of an additional 30-day extension (if applicable) to respond to recommendations. Below is an update on these outstanding recommendations.

From the 1st Quarter 2019

IIG16-0175. This review was initiated by the Office of the Independent Inspector General (OIIG) as a follow-up to the OIIG's identification of leaves of absence recordation issues within Cook County government. The review was expanded to include the Cook County Health and Hospitals System (CCHHS) to determine whether adequate controls were in place within CCHHS in the administration of leaves of absence and assure that employees are returned to work when appropriate. In the performance of this review, the OIIG examined documents produced by CCHHS' Department of Human Resources (HR) and Payroll Department, as well as the Comptroller's Office. The OIIG also conducted interviews and engaged in follow-up discussions with the CCHHS Chief of Human Resources and the CCHHS Leave Administration Manager.

The Leave Administration Manager (LAM) stated that HR has recently implemented certain procedures and data cross-checking measures to identify employees who are off work, in some cases possibly for valid reasons, but who are not on an approved leave of absence. CCHHS payroll data suggested that up to 174 employees were in a questionable leave status. The LAM emphasized that all leaves must be requested and approved through the current Cook County Time (CCT) system, regardless of whether an employee may have received approval from someone to take time off. For example, the LAM advised that certain employees may have a valid reason for being off work (e.g., out on disability or workers' comp), but have not formally requested leave through CCT. However, he also acknowledged there are employees who simply never report back to work and are not on an approved leave of absence. The LAM advised that he recently developed the "unapproved leave letter" which is HR's primary tool for addressing those situations in which an employee is not on an approved leave of absence. This letter advises the employee that CCHHS has determined that he/she is on an "unapproved leave of absence" and is required to formally request a leave of absence by logging into Cook County Time. The letter also discusses options for paid time off (e.g., sick or vacation time, disability or workers compensation), although it notes that those absences still require appropriate certification or approval. The letter concludes by informing the employee that if HR does not hear from him/her within two weeks, HR will proceed with scheduling a disciplinary hearing which may result in discipline up to and including possible termination. The LAM indicated the use of this letter has been very effective in promoting HR's "return to work" process.

The Chief of Human Resources (HR Chief) related that pay code 625 (for "unpaid" time) is typically used as a "default code" when a timekeeper and/or department head is unsure of how to code an employee who is out on a non-paid leave (whether approved or not). The HR Chief

Hon. Toni Preckwinkle and

Hon. Members of the Board of Commissioners

July 15, 2019

Page | 21

advised that due to the limited detail afforded by the use of code 625, she has suggested the Cook County Bureau of Technology's Deputy Director of Application Management and Development (who sits on the IT Enhancement Board) add various pay codes to EBS and CCT. She noted that these additions would allow CCHHS to better capture the nature of an employee's status.

Based on our review, we found that CCHHS continues to implement positive practices for leave of absence accountability and promoting CCHHS employees' return to work following leaves of absence. We recognized and encouraged the continued efforts of CCHHS to improve the process of identifying and monitoring employees that are on a leave of absence and to ensure that employees understand their responsibilities. We recommended that CCHHS continue to pursue with the Bureau of Technology pay code table improvements for CCT and EBS. As always, the continued and regular training of CCHHS' timekeepers was also recommended to maintain consistency in the use of pay codes as well as to reinforce the importance of correctly documenting employee leave information.

These recommendations were made on March 25, 2019. On July 11, 2019, CCHHS stated that it is pursuing implementation of the recommendations.

IIG17-0337. This investigation was initiated in response to an anonymous complaint that a clerk at Provident Hospital was working at another medical facility while she was on Family and Medical Leave Act (FMLA) leave and disability from Provident Hospital. In order to evaluate the allegations, this office interviewed the subject clerk, her supervisor and manager, and employees of the other medical facility where the clerk was allegedly working in violation of CCHHS rules. We also analyzed the clerk's medical file from CCHHS which included her applications for leave through FMLA and the Disability Act, in addition to subpoenaed records from the other medical facility.

Based on the preponderance of the evidence developed in this case, the OIIG has determined that the subject clerk violated CCHHS Personnel Rules by failing to submit a dual employment form for work at the other medical facility and disclose her dual employment there. In addition, CCHHS Personnel Rules specify that dual employment cannot exceed 20 hours per week, yet the subject clerk worked on average approximately 40 hours per week at the other medical facility during the time period at issue. Under the FMLA, if the employer has a uniformly applied policy governing outside or supplemental employment, such a policy may continue to apply to an employee while on FMLA leave. Therefore, Cook County's policy for dual employment applied while the subject clerk was on FMLA.

The subject clerk also violated OIIG Ordinance Sec. 2-285(a) by failing to cooperate with investigators during the investigation by providing misleading and/or false information. Throughout the investigation, the clerk provided contradicting statements and statements suggesting that she was never employed by the other medical facility and that she never received payment for work there. These statements were refuted by the documentary evidence and witness interviews obtained from staff at the other medical facility.

The subject clerk further violated CCHHS Personnel Rules by submitting an FMLA application and disability application for high risk pregnancy with no opportunity for job accommodations, and then proceeded to work in a similar job at another facility. The clerk had tendered a letter from her medical provider stating that she was unable to work in any capacity. Yet, days later, she began working and received pay from the other medical facility, all while receiving benefits and subsequent disability payments from Cook County. Such conduct is tantamount to fraud.

Based on our findings, we recommended that CCHHS terminate the subject clerk and place her on the do not rehire list. We also recommended that CCHHS report the clerk's violations to the Pension Board and request reimbursement for disability payments previously made. Finally, we recommended that CCHHS consider placing reasonable restrictions on the ability of employees on FMLA status to engage in outside employment.

These recommendations were made on February 28, 2019. CCHHS adopted the first recommendation, but to date CCHHS has not responded to the second and third recommendations.

IIG17-0349. The OIIG received information that a residence in Chicago had been improperly assessed by the Cook County Assessor's Office (CCAO) for approximately seven years. Specifically, it was alleged that since 2010 the subject property had been taxed as a vacant lot when a new construction home had been erected at that address the same year. During the course of this investigation, this office considered the Cook County Code of Ordinances and analyzed records from the CCAO, the Cook County Recorder of Deeds, the City of Chicago Buildings Department, and Chicago Title and Land Trust.

The preponderance of the evidence developed in this matter revealed that members of the CCAO failed to work in accordance with CCAO policies, procedures and/or practices by failing to record relevant information and properly reassess the subject property in a timely manner. The property had been improved from a vacant lot to a single-family home sometime immediately after 2009, but prior to the triennial reassessments in 2012 and 2015. The evidence also suggested that emails were sent to the CCAO from the City of Chicago regarding construction to take place on the property, though CCAO employees maintain those permits were withdrawn or were not the type that would trigger a duty on them to reassess. The property was sold and refinanced numerous times through 2016 while at various points CCAO staff were put on notice that the value of the property had increased substantially. The complainant, a concerned taxpayer, stated that he specifically addressed the value of the new construction in 2012 with employees of the CCAO who relayed that information and the taxpayer's concerns to CCAO management staff. However, during the entirety of that time, the CCAO failed to reassess the property which should have been part of a triennial reassessment in 2015, 2012, and 2009 and appropriately reassessed to reflect its accurate value. The failure of CCAO employees to do so resulted in a loss of taxpayer revenue from the property owners in an amount over \$150,000.00.

The OIIG is mindful of the transition in leadership in the CCAO and that the conduct discussed in this report pertains to a prior administration. Nevertheless, we recommended consideration be given to the following:

1. The CCAO should review the process by which information is received from the City of Chicago Buildings Department and acted upon by the CCAO.
2. To the extent possible, the CCAO should develop written policies and procedures to ensure improvements to land are properly assessed in a timely manner.
3. The CCAO should establish relationships with other offices, such as the Recorder of Deeds, to facilitate information regarding property values to be cross checked from multiple sources to ensure proper and timely assessments.
4. The CCAO should give consideration to the additional properties identified by the concerned taxpayer that are contained a spreadsheet provided by the OIIG to ensure proper assessment has occurred.

These recommendations are currently pending.

IIG18-0212. The OIIG initiated this investigation after receiving a complaint that a former employee of the Comptroller's Office was the victim of sexual harassment and discrimination by an official in that office. During the course of this investigation, this office reviewed personnel files and interviewed numerous employees of the Comptroller's Office, as well as the complainant.

The preponderance of the evidence developed during the course of this investigation failed to support a sustained finding of sexual harassment in violation of the Cook County Equal Employment Opportunity Policy. The former employee's account of her treatment by the subject official is compelling and raises concerns about his management practices. However, although sexual harassment can be subtle, the behavior described by the former employee is too open to interpretation to rise to the level of a sustained finding of sexual harassment. The former employee acknowledged fidgeting and alleged being questioned by the subject official about her body language. It should go without saying that discussing an employee's body in a way that can be misinterpreted is inadvisable and unprofessional at best. However, this office interviewed the other potential witnesses to this behavior suggested by the former employee, and none were able to corroborate her claims of sexual harassment. Moreover, the subject official has credibly denied the former employee's account of her treatment and provided a detailed description of the former employee's failure to meet the expectations of the position leading to her termination during her probationary period.

Although the allegations of sexual harassment are not sustained, we have noted instances of poor communication that several witnesses have described on the part of the subject official. None of the examples offered by the third-party witnesses implicate language that could reasonably be characterized as harassing in nature. Nonetheless, the subject official's effort to

generate productivity in the workplace and coach these employees has, on occasion, left them “slightly” offended or wondering whether he was joking. We recommended that the subject official be counseled to undertake a self-assessment to ensure his management style consistently promotes the ideals of Cook County in the workplace.

The County adopted this recommendation.

IIG18-0224. In response to a complaint, the OIIG initiated a review to assess whether a particular contract had been properly procured under the Cook County Health and Hospitals System (“CCHHS”) Supply Chain Management Procurement Policy, Section 2.8. Comparable Government Procurement. The CCHHS Supply Chain Management (SCM) Procurement Policy states that a contract may be procured under the Comparable Government Procurement process when another government agency has awarded a contract through a competitive method for the purchase of the same or similar services as those sought by CCHHS. The policy further states the CCHHS SCM Director, in his or her discretion, is authorized to purchase such services from that vendor at a price or rate at least as favorable as that obtained by the other government agency without engaging in a competitive process.

The evidence developed during the course of this investigation supports the conclusion that the subject contract concerning CountyCare’s members was awarded in deviation of the procedures listed in the Supply Chain Management Procurement Policy, Section 2.8. Comparable Government Procurement. In this case, while the other government agency (a local municipality) had awarded a contract to the subject vendor through a competitive process for similar services being sought by CCHHS, the fee structure was not similar. The subject vendor’s contract with the local municipality had a “per participant per month” fee structure, while the subject contract with CCHHS involved a monthly fee structure.

Additionally, an independent price analysis was not conducted by the CPO’s office. CCHHS instead relied on information provided by the vendor. If an independent analysis had been undertaken, we believe it likely that the proportional volume of participants in the local municipality’s contract in comparison to the 335,000 CountyCare members would have been a relevant pricing issue to consider when determining whether Comparable Government Procurement was an appropriate procurement method considering that the local municipality only employs approximately 280 full-time employees. Moreover, because the fee structure proffered by the subject vendor was never analyzed, it is unknown if it provided CCHHS with a price or rate at least as favorable as that obtained by the local municipality.

Finally, the CCHHS Board approved the subject contract on March 2, 2018 with the Board Approval Request form displaying a “per participant per month” fee structure. However, the contract ultimately executed by management three months later displayed a monthly fee structure. That is, the CCHHS Board did not approve the subject contract with a fee structure of a monthly rate. Since the fee structure changed on the subject contract after it was approved by the CCHHS Board, an amended item should have been presented to the Board for approval.

Based on our findings, we recommended:

1. CCHHS should hold this matter in abeyance to permit SCM an opportunity to reconsider this proposed procurement in light of the findings above before considering any renewal and extension at the next CCHHS Finance Committee meeting.
2. In connection with future procurements, CCHHS should strictly adhere to Section 2.8 of the Supply Chain Management Procurement Policy by consistently verifying the services sought are sufficiently similar to the services provided in the underlying contract and that rate charged by the vendor is the same or better, as required by the policy. This may be achieved through additional training of SCM contract specialists and developing and employing a uniform SCM Contract Specialist Worksheet to guide analysts in their work.
3. CCHHS should amend Section 2.8 of its policy to limit comparable government procurement awards to contracts with similar quantity, size and scope as those of CCHHS.

CCHHS adopted the first recommendation and has requested additional time to further consider the second and third recommendations.

IIG18-0396. The OIIG opened this case after receiving information that the Oak Forest Health Center (OFHC) Billing Department Management promoted an unqualified person into the supervisory position of Patient Financial Services Quality Management Coordinator. During its investigation, the OIIG reviewed the subject employee's Cook County Health and Hospitals System (CCHHS) personnel file and online application submissions. The OIIG also reviewed the subject employee's personnel file from a prior employer as well as employment verification results. In addition, OIIG investigators conducted interviews of the subject employee and a CCHHS Senior Human Resources Coordinator.

The preponderance of the evidence developed by the investigation supports the conclusion that the subject employee misrepresented her qualifications on her employment records. The evidence revealed that the employee was untruthful when she indicated that she was a supervisor at a prior hospital employer on her online application submission for the subject CCHHS job posting - Patient Financial Services Quality Management Coordinator. Based on all the foregoing, the subject employee violated Personnel Rule 8.03(c)(26) (Falsification of Employment Records) and Cook County Code, Section 44-54 (Personnel Policies-Falsification).

Section 44-54(e) of the Cook County Human Resources Ordinance requires that, where an employee makes such a false statement, the employee shall forfeit her position and be ineligible for CCHHS employment for a period of five years. Accordingly, we recommended that the subject employee's employment be terminated and that she be ineligible for CCHHS employment for a period of five years.

Hon. Toni Preckwinkle and

Hon. Members of the Board of Commissioners

July 15, 2019

Page | 26

The CCHHS Employment Plan incorporates various personnel rules prohibiting applicants from making false statements in the application process and establishes a basis for ineligibility for employment that apply to this case. The CCHHS Employment Plan also incorporates Section 44-54 as a basis for employment ineligibility. Accordingly, we further recommended that CCHHS place the subject employee on the *Ineligible for Hire List* because of her submission of false applications to CCHHS.

CCHHS adopted our recommendations and this matter is currently scheduled for a disciplinary hearing.

IIG19-0122. In case number IIG17-0455, this office undertook to evaluate the functions of various exempt employees to determine whether the employees were being utilized in a manner consistent with their exempt status. Among others, this office investigated the functions of the position of Legislative Coordinator (Bureau of Administration) and determined that the occupant was not performing core functions of a Legislative Coordinator. Specifically, contrary to the job description, the occupant did not propose, draft or edit legislation, conduct fiscal analysis, track legislation at the national, state or local level or coordinate legislative efforts among various government entities or departments. Rather, the occupant was relegated to performing ministerial and administrative tasks such as making copies and parking County pool vehicles. Moreover, the OIIG expressed concern that there was insufficient work of any type to fully occupy the person holding the position. The OIIG recommended the position be removed from the Exempt List. In the negotiations that ensued between Cook County and the OIIG (which were monitored by the Shakman Compliance Administrator), Cook County took the position that (1) it needed to keep the exempt position because its legislative functions were operationally necessary and (2) the occupant would, moving forward, be required to perform the core functions of a Legislative Coordinator or would be relieved. Upon this assurance, the OIIG withdrew its recommendation and the position remained on the Exempt List.

In March of 2019, the OIIG had occasion to interview the current exempt Legislative Coordinator holding the subject position. The Legislative Coordinator, who has been in the position since December of 2018, stated that she has some involvement with the Legistar system but that her involvement is minimal given that (1) her coworker, of the same title, performs much of the work in Legistar and (2) the seven departments overseen by the Bureau of Administration upload their own content to Legistar without her involvement. The Legislative Coordinator stated that she arranges meetings between the Chief Administrative Officer and County Commissioners but does not otherwise participate in those meetings. The Legislative Coordinator stated that she attends meetings between the Chief Administrative Officer and the leadership of the aforementioned seven departments but does not participate unless asked a question concerning Legistar. The Legislative Coordinator stated that she generally manages the calendar of the Chief Administrative Officer and arranges all her meetings. Finally, the Legislative Coordinator stated that she assists with the performance metrics as maintained by the Chief Administrative Officer. When asked for detail about her role in that process, the Legislative Coordinator stated that she sends an email reminder twice each month reminding the department leaders to send their monthly data to the Legislative Coordinator, who then enters the data into a spreadsheet which is then

submitted to the Bureau of Finance. The Legislative Coordinator does not perform any other function with respect to the performance data.

The Legislative Coordinator stated that she does not draft, study or otherwise track legislation nor does she draft “business cases” regarding the impact of current or prospective legislation. The Legislative Coordinator stated that such functions are performed by her coworker of the same title. The Legislative Coordinator explained further that she hopes to be more involved in the work of the Bureau of Administration and is routinely telling her superior that she is available to do more work. The Legislative Coordinator stated “I’m there for eight hours each day – I let them know I’m available all the time.” When asked whether she was aware of any planned evolution of her role in the Bureau, the Legislative Coordinator stated that a coworker had advised the Legislative Coordinator that it might take six to eight months for her to become conversant with Legistar and that her role may grow to include more duties in that regard.

Based on the above, we concluded that the subject Legislative Coordinator is not “consistently performing the duties of the Exempt Position in a meaningful manner as provided in the job description.” Cook County Employment Plan (October 31, 2018), Section XII.C.2. As such, this office proposed, pursuant to Section XII.C.2., that Cook County remove the position of Legislative Coordinator (PID 1000983) from the Exempt List. In addition, and in accordance with Section XII.C.2, we requested a written approval or objection to the proposed change within 10 days.

This recommendation was made on March 29, 2019 and to date we have not received a response from the County.

Activities Relating to Unlawful Political Discrimination

Political Contact Logs (PCLs)

In April of 2011, the County implemented the requirement to file Political Contact Logs with the Office of the Independent Inspector General. The Logs must be filed by any County employee who receives contact from a political person or organization or any person representing any political person or organization where the contact relates to an employment action regarding any non-Exempt position. The IIG acts within his authority with respect to each Political Contact Log filed. From April 1, 2019 to June 30, 2019, the Office of the Independent Inspector General received 14 Political Contact Log filings.

Post-SRO Complaint Investigations

The OIIG’s final outstanding *Shakman* Post-SRO complaint investigation was completed this quarter. No other Post-SRO Complaints are pending.

New UPD Investigations not the result of PCLs or Post-SRO Complaints

Apart from the above PCL and Post-SRO activity, the OIIG has opened four additional UPD inquiries during the last reporting period. The OIIG continues to assist and work closely with the embedded compliance personnel in the FPD, CCHHS, Assessor, Recorder and the Cook County Bureau of Human Resources by conducting joint investigations where appropriate and supporting the embedded compliance personnel whenever compliance officers need additional manpower to fulfill their duties under their respective employment plans.

Employment Plan – Do Not Hire Lists

The OIIG continues to collaborate with the various Cook County entities and the Cook County Compliance Administrator to ensure the lists are being applied in a manner consistent with the respective Employment Plans.

OIIG Employment Plan Oversight

Per the OIIG Ordinance and the Employment Plans of Cook County, CCH and the Forest Preserve District, the OIIG reviews, *inter alia*, (1) the hire of *Shakman* Exempt and Direct Appointment hires, (2) proposed changes to Exempt Lists, Actively Recruited lists, Employment Plans and Direct Appointment lists, (3) disciplinary sequences, (4) employment postings and related interview/selection sequences and (5) Supplemental Policy activities. In the last quarter, the OIIG has reviewed and acted within its authority regarding:

1. Seven changes to the Cook County Actively Recruited List;
2. Two proposed change to the Cook County Employment Plan;
3. Four proposed changes to the Cook County *Shakman* Exempt List;
4. The hiring of 17 *Shakman* exempt employees; and
5. Seven proposed changes to the CCH Direct Appointment List.

Monitoring

The OIIG currently tracks disciplinary activities in the Forest Preserve District and Offices under the President. In this last quarter, the OIIG tracked (and selectively monitored) 66 disciplinary hearings and related grievances. Further, pursuant to an agreement with the Bureau of Human Resources and with the collaboration of the Cook County Compliance Officer, the OIIG tracks hiring activity in the Offices under the President, conducting selective monitoring of certain hiring sequences therein. The OIIG also is tracking and selectively monitoring CCHHS hiring activity pursuant to the CCHHS Employment Plan.

Prohibition of Discrimination and Harassment

On December 17, 2017, the Board of Commissioners acted to amend the Prohibition of Discrimination and Harassment Ordinance, Cook County Code, Section 44-53, requiring all

County government agencies and offices to adopt policies strictly prohibiting discrimination and harassment, including the prohibition of sexual harassment, in County government and also establish sexual harassment training programs for all County employees. The FPD Board of Commissioners passed similar legislation. As part of the amendments, the OIIG is required to monitor implementation of the provisions of the ordinance and issue quarterly reports documenting progress.

On May 30, 2019, this office reported the Office of Independent Inspector General (OIIG), Sheriff's Office, Cook County Health and Hospital System (CCH), Clerk of the Circuit Court, Board of Review (BOR), Cook County Treasurer, Cook County Clerk, Public Administrator and Recorder of Deeds are each in compliance with the nondiscrimination and anti-harassment policy requirements set forth in Section 44-53 of the Code of Ordinances and are no longer required to submit reports pursuant to this section. Similarly, the Cook County Land Bank has adopted BHR's existing Equal Employment Opportunity policy and the Office of the Chief Judge has provided its existing Equal Employment Opportunity and Sexual Harassment policies and will no longer be required to report on compliance efforts to this office. All other Cook County government agencies have reported taking active steps toward full compliance and anticipate finalizing the necessary steps in the coming months.

In connection with the implementation and administration of training programs, we are pleased to report that all agencies being monitored by the OIIG continue to demonstrate an ongoing commitment to ensuring full compliance with the training requirements set forth in the Code. The OIIG will continue to monitor compliance with the Code in the coming months.⁶

OIIG Staffing

Due the Intergovernmental Agreement entered into with the Metropolitan Water Reclamation District of Greater Chicago creating two additional positions within this office along with the occurrence of several vacancies, we have engaged in several cycles of postings and rounds of interviews with prospective candidates. I am pleased to inform you of the following changes to OIIG staff. Investigator Mary Anne Spillane has joined this office following over 20 years of extensive legal experience with the City of Chicago Law Department, Cook County State's Attorney's Office and in private practice focusing on complex civil and criminal matters. Investigator Thomas Wilson joins this office with over 20 years of service with the FBI including 10 years as a Supervisory Special Agent. Investigator Benjamin Dillon has served as an Assistant State's Attorney for 15 years primarily with the Lake County State's Attorney's Office where he managed a diverse range of criminal matters. I am also pleased to inform you of the promotion of two highly respected OIIG Investigators - Investigator Megan Carlson and Investigator Christopher Duffin – within the office.

⁶ Complete reports can be found at <https://www.cookcountyil.gov/service/prohibition-discrimination-and-harassment>.

MWRD Operations

As you know, on April 18, 2019 the Board of Commissioners of the Metropolitan Water Reclamation District of Greater Chicago (MWRD) adopted Ordinance O19-003 entitled Office of the Independent Inspector General (MWRD OIIG Ordinance) that has been designed to promote integrity and efficiency in government and provide independent oversight of the MWRD. Additionally, an Intergovernmental Agreement between the County of Cook and MWRD became effective by full execution of the parties on May 17, 2019 (Sec. II. Term of Agreement) thereby authorizing the OIIG to initiate operations at the MWRD. Since that time, this office has focused on establishing internal protocols to integrate the MWRD into OIIG operations, orientating OIIG staff to the MWRD, setting up an OIIG office and conducting related activities. We have also scheduled numerous presentations that will allow us to engage all MWRD staff personally. During the presentations, we will outline the role of the office and the responsibilities of all MWRD staff under the MWRD OIIG Ordinance and hope to develop a line of communication with MWRD staff as we move forward. In accordance with the Intergovernmental Agreement, MWRD quarterly reports detailing OIIG case activity will be submitted to the MWRD Board of Commissioners separately.⁷

Conclusion

Thank you for your time and attention to these issues. Should you have any questions or wish to discuss this report further, please do not hesitate to contact me.

Very truly yours,



Patrick M. Blanchard
Independent Inspector General

cc: Attached Electronic Mail Distribution List

⁷ MWRD reports can be found at <https://www.cookcountyil.gov/service/metropolitan-water-reclamation-district-greater-chicago>.

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